

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

- v -

11-CR-238(RJD)(VVP)

OPIO CALIB JOSEPH

Defendant.

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DEARIE, District Judge.

On July 29, 2011, the defendant, Opio Calib Joseph, moved to suppress statements made after his arrest on the narcotic charges now before the Court. See ECF Docket # 47. The defendant argued that his statements must be suppressed because he was not provided with adequate warnings under Miranda v. Arizona, 384 U.S. 436 (1966).

After the matter was fully briefed, I referred the defendant's motion to suppress to Magistrate Judge Pohorelsky for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). See ECF Docket # 50. Judge Pohorelsky presided over a suppression hearing first held on October 5, 2011, See ECF Docket # 60, and continued on October 17, 2011. See ECF Docket # 61. On November 14, 2011, Judge Pohorelsky issued his Report and Recommendation, recommending that defendant's motion to suppress his incriminating statements be denied. See ECF Docket # 62. Judge Pohorelsky directed the parties to submit any objections to the Report and Recommendation within 14 days of receipt of the report, or November 28, 2011. See Report and Recommendation, at 8. The period for filing objections for all parties has now expired, and no objections to the Report and Recommendation have been filed.

In reviewing the Report, this Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Where, as here, no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted).

Upon careful review of the record, the consistent and corroborative testimony of Department of Homeland Security Special Agents, David Jansen, Thomas Acocella, Daniel Callaghan, Steven Mullen, and Chatchai Chunton, and the testimony of the defendant, I find no reason to question the Magistrate Judge’s determination of the credibility of the Government witnesses, upon which the Miranda issue hinged. Nor do I find reason to question the Magistrate Judge’s determination that the defendant was fully capable of understanding his rights under Miranda. Therefore, I adopt the Report and Recommendation without qualification.

SO ORDERED.

Dated: Brooklyn, New York
December 9, 2011

s/ Judge Raymond J. Dearie

RAYMOND J. DEARIE
United States District Judge